

CABINET
24 SEPTEMBER 2015**FUTURE GOVERNANCE OF WORCESTERSHIRE YOUTH
MUSIC**

Relevant Cabinet Member

Mr J P Campion, Mr M L Bayliss, Mrs L C Hodgson

Relevant Officers

Director of Children's Services

Director of Business, Environment and Community

Recommendation

- 1. The Cabinet Members with Responsibility for Children and Families, Localism and Communities, and Transformation and Commissioning recommend that Cabinet:**
 - (a) supports in principle that a Company Limited by Guarantee with charitable status is the preferred governance option for the Worcestershire Youth Music service (Option 5), and approves the development of a Detailed Business Case for this option; and**
 - (b) delegates authority to the Cabinet Member with Responsibility for Children and Families, in consultation with the Director of Children's Services and the Director of Business, Environment and Community, to take the final decision on the future governance of the Worcestershire Youth Music service based on the findings of the Detailed Business Case.**

Background

2. On 15 May 2014, the Council approved the adoption of a new Operating Model. This set out the Council's direction of travel as predominantly a Strategic Commissioner, with services only provided in-house where there is not a viable alternative. The Council is continuing to commission services through a variety of models, with recommended models taken forward based on the most beneficial approach for the Council, Service Users and the Service.
3. Worcestershire Youth Music (WYM) provides music tuition, performance opportunities, instrument hire and other music education to pupils in Worcestershire. This growing service currently engages with 8-10,000 children and young people and is also the lead organisation for the Worcestershire Music Hub which has a government/Arts Council England (ACE) remit of delivering the National Plan for Music Education (NPME) in Worcestershire. The impact of this is subject to scrutiny and evaluation by OFSTED and ACE.

4. The Council has a statutory duty within the Education Act 2002 to ensure the music components of the National Curriculum are delivered and, more generally, to contribute to the spiritual, moral, mental and physical education of the community by securing efficient education at primary and secondary level. The case for music education is supported by national and international research (the National Plan for Music Education provides a brief review of the academic literature on the benefits of music), which provides substantial evidence of the positive impact of engagement with music on:

- children's attitudes to learning, their educational progress and social development
- social development, language skills, and physical co-ordination with early years children
- Self-esteem and self-confidence with young people in the teenage years, when music is an important part of young people's social identity.

5. WYM currently has a budget of £1.9m of which £738k is ACE (Government) Grant and the remainder is traded income. The service no longer receives funding from the council as part of the Base Budget. Total savings made by the service in the last 5 years are in the region of £650K.

6. As part of Transforming the service in September 2014, a new Service Manager, was brought in to WYM, bringing with him experience of improving other music services. The service is making crucial changes and the team is taking national leads on projects such as the BBC's 'Ten Pieces' as a result. WYM has an exciting future ahead, leading the Worcestershire Music Education Hub, working more closely with arts organisations across Worcestershire and beyond and providing an accessible service for the county's young people. It has ambitions to develop its offer and its role beyond young people, music and the county boundaries. The right governance model can enable this to happen.

7. WYM is the only Music Service being trained by the Cabinet Office's Mutual Information Service (MIS) in how to create a successful business model for a 'spin out' – the Council is therefore leading the way and can offer the results as a best practice blueprint to others. WYM can thrive in the right governance model, and the reputational enhancement to the Council would be significant.

Future Service Delivery Options

8. The needs of the service users are detailed in the Needs Assessment (within Appendix 1). Five options have been considered for the future of the service:

- 1) Retain in-house - Keep service in current state;
- 2) Tender or transfer of business to an alternative provider - This would involve procuring services of a new provider.
- 3) Creation of an independent music service, Company Limited by Guarantee, with charitable status - This would involve establishing a company limited by guarantee with charitable status.
- 4) Creation of an independent music service through joining up with Music Service, Company Limited by Guarantee, with charitable status - This would involve

establishing a company limited by guarantee with charitable status in partnership with another Music Service.

5) Creation of a Company Limited by Guarantee, with charitable status with a wider cultural/arts brief - This would involve establishing a company limited by guarantee with charitable status with a wider arts remit, giving greater scope to diversify its offer to service users in the future.

Appraisal of Service Delivery Options

9. We have appraised each of the options for future delivery, in Appendix 1, section 5, using the following criteria:

- Finance / Cost
- Fit with the Council's Corporate Plan
- Statutory Duties
- Synergies with other services
- Risks
- Access for service users
- Ability to deliver quality service, fit for purpose.

10. Options summary

Option 1 - no change – This option is not recommended as it carries risks around the future financial sustainability of the service; does not align to the corporate ambitions of the Council and will not allow the service to fully exploit opportunities and expand in a changing marketplace.

Option 2 - tender or transfer of business – This option is not recommended as it carries too many high level risks around the market for such a service. This is because there is no revenue budget in WYM for the Council to tender. It would instead be a transfer of business, but all the liabilities of the service and restrictions on the use of the Arts Council England grant, as well as experience elsewhere now being reviewed, and a review of current market intelligence, mean that it is highly unlikely there would be a market for such a transfer.

Option 3 – creation of an independent music service, a Company Limited by Guarantee, with charitable status – This option, along with Option 5, carries the least risk for both the Council and the service in the long term. There are short-term costs in the establishment of an external service, but the longer-term financial and quality of service benefits, due to the ability to react quickly, reduce large overheads and access new income streams mean that this option is viable but is not recommended at this time due to its narrower focus.

Option 4 – creation of an independent music service through joining up with another Music Service, a Company Limited by Guarantee, with charitable status – Although this option has many of the benefits of option 3 and 5 it is unlikely to develop structurally in the near future due to the distinct diversity of business models in operation locally. The relative size and subsequent capacity of potential partners in the area, and the operational and logistical challenges due to the nature of service delivery, all make this option not viable. It is therefore not recommended at this stage.

Option 5 – creation of a Company Limited by Guarantee, with charitable status with a wider cultural/arts brief – This option is recommended for progression as it is innovative in its ambition for the service and yet carries the least risk for both the Council and the service in the long term. There are short-term costs in the establishment of an external service, but the longer-term financial and quality of service benefits, due to the ability to react quickly, reduce large overheads and access new income streams mean that this option is considered as the most beneficial for the Council, service users and the service. The Company Limited by Guarantee would be an independent organisation, with no ownership from the Council; further proposals of governance are detailed in section 16 below.

11. Subject to outline approval from Cabinet the option recommended to be developed to detailed business case stage is option 5, for the service to be transferred to a **Company Limited by Guarantee, with charitable status with a wider arts brief**. The detailed business case will resolve the potential risks and issues associated with this option, which are summarised in section 15 below.

Benefits to Service Users

12. The benefits of the recommended option to services users, including schools and individual pupils, are detailed in Appendix 1, but can be summarised below:

Finance

- Service users are likely to benefit from the new organisation's ability to secure new income streams, from trusts or other grant-making bodies

People

- Service users will have access to a service with increased operating flexibility which will be more responsive to service users' needs
- A more flexible WYM will be able to engage more people in a wider range of music/arts opportunities
- Service users will benefit from an improved music and arts offer for the people of Worcestershire

Process

- Service users will have consistency of systems, personnel and approach from a new organisation
- Service users will be dealing directly with an independent organisation that is able to streamline process and offer an efficient range of services
- WYM is more responsive to user needs and is able to adapt quickly to changing requirements

Benefits to the Council

13. The benefits of the recommended option to both the Council and the service are detailed in Appendix 1, but can be summarised below:

Finance

- Immediately on transfer - Capped and reducing liabilities (pension & redundancy) for the Council, with decreasing risk as natural staff turnover takes effect

- Immediately on transfer - no revenue commitment or back-office support from the Council to the ongoing management/running of WYM
- National examples of spin-outs prove that leaving LA control enables services to be much more competitive; able to react fast, reduce significant overheads, and access income streams currently unavailable within LAs.

People

- The Council would have an independent and sustainable partner organisation delivering improved outcomes for children and young people
- Increased operating flexibility will allow a more responsive reaction to schools` needs resulting in greater pupil impact, including targets to double current reach of service to 18,000 pupils, engage with all schools, provide whole class tuition to 75% of schools and have a 60% continuation rate
- An improved music and arts offer for the people of Worcestershire

Risks of staying in-house

14. Music services nationally are changing dramatically. Reduced finances, a more competitive market-place, and national policy developments all require a new direction.

Finance

- If WYM stays within the Council, it will not be able to react quickly (due to the length of internal recruitment processes) or develop commercially (due to constraints on local government bodies in securing diverse funding streams) and this will most likely mean the deterioration of the service.
- Potentially expensive redundancy costs and a loss to the children and young people of Worcestershire.
- Service is not able to maximize income streams such as adult music education, sponsorship, gift aid. Bequests less likely when part of the Council.

People

- For WYM to be able to be successful in a competitive market and develop its music and wider arts/cultural offer to children and young people and others throughout Worcestershire ,and potentially beyond, it requires a greater degree of flexibility than can be afforded to it whilst operating within the Council.

Process

- Staying in-house risks not sustaining or growing music education for Worcestershire's young people due to internal processes, such as recruitment, which result in lack of competitive edge. The Council has the opportunity to enable WYM to thrive.

Key factors for negotiation

15. In order to ensure Option 5 would be effective and that the service would have a sustainable future, the following have been identified as deliverables, to be developed and agreed as part of the detailed business case. These are:

- Costed business plan for first five years of operation to include:
 - Growth projections

- Staff projections
- Sensitivity analysis/profiling
- Redundancy liabilities
- Pension liabilities
- Support to set up the company and associated costs and financing
- Asset transfer costs
- Retention of current reserve
- Risk profile.

16. The above deliverables are considered critical to the success of the transfer for both the Council and the proposed new organisation, as without mutual agreement on these factors, WYM would be unlikely to attract sufficient high quality trustees, who may well be wary of applying for a Board role without certain success factors in place. While Appendix 5 (embedded within Appendix 1) sets out some initial recommendations in relation to these issues, the Detailed Business Case will address all of these issues in detail and set out clearly the implications (including financial implications) for the Council and the new organisation.

Governance Model of New Organisation

17. The new organisation would be a Company Limited by guarantee, with charitable status, accountable to a Board of Trustees. The Board would be accountable to the Charity Commission and to its funders – primarily the Arts Council – and subject to the terms and conditions of their grant. There would be no formal accountability to Ofsted.

18. The Board of Trustees would need the requisite skills to lead the Music Education Hub and operate a trading arm, considering skills and experience in music education, local authority services, schools, young people, law, finance and business. The Council would recruit the initial trustees and the body itself would recruit the rest. The recruitment process would be thorough. Trustees would be volunteers. The aim would be to recruit Trustees from a range of backgrounds, including the public, charitable and private sectors to ensure a broad range of skills and experience on the Board. If the Trust wished not to be classed as local authority influenced, local authority representation would be limited to 19% of the Board. This applies to anyone on the Board employed by the County Council, other local authorities or elected members.

HR Implications

19. Staff would transfer to the new company under TUPE.

20. All proposals for service transfer or review set out in this report will be subject to the development of a detailed business case. This project development will involve careful and specific consideration of all the staffing implications relevant to each proposal.

Communications Plan

21. This will include plans to communicate and consult with staff and trade unions. Wider staff and union communications have already begun to take place, and will continue, alongside specific communication and consultation processes necessary to support staff and managers, and to successfully implement the changes. Wider stakeholder and service user engagement would also be a key element of the process prior to the potential transfer of the service.

Equality and Privacy Impact Assessment

22. An Equality Impact Relevance Screening report was carried out in March 2015. This concluded that no potential inequality has been identified which would result from the fact that staff or service users have one or more of the Protected Characteristics (listed in equalities legislation). It is not considered that the report has any impact on privacy issues, but clearly data security of eg client databases would need to be addressed at a later point.

Next Steps

23. An outline timeline for further development of the project is detailed below:

- Oct – Dec 15 Develop Detailed Business Case
- Oct – Dec 15 Approach potential Trustees, including them in detailed business case process
- Dec 15 Commercial / Financial Proposal Developed
- Staff Impact Assessment
- Jan 16 – Detailed Business Case to CMR
- Jan – Sep 16 subject to CMR approval, company formation, formalise Trustee status, finalise transfer agreement, TUPE consultation.

Supporting Information

- Appendix – Recommendations Report – is available electronically. A hard copy is available in reception and in the Members' area at County Hall, Worcester.

Contact Points

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Background Papers

In the opinion of the proper officer (in this case the Director of Business, Environment and Community) the following background papers are relevant to this report.

- The National Plan for Music Education:
<https://www.gov.uk/government/publications/the-importance-of-music-a-national-plan-for-music-education> (Nov 2011)
- Ofsted report into Music Hubs:
<https://www.gov.uk/government/publications/music-in-schools-what-hubs-must-do>
(Nov 2013)